

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 **IN RE GOOGLE PLAY STORE**
12 **ANTITRUST LITIGATION**

No. 3:21-md-02981-JD

13 THIS DOCUMENT RELATES TO:

[PROPOSED] ORDER GRANTING
PLAINTIFFS' MOTION FOR
SANCTIONS

14 *Epic Games Inc. v. Google LLC et al.*,
15 Case No. 3:20-cv-05671-JD

Judge: Hon. James Donato

16 *In re Google Play Consumer Antitrust*
17 *Litigation*, Case No. 3:20-cv-05761-JD

18 *State of Utah et al. v. Google LLC et al.*,
19 Case No. 3:21-cv-05227-JD

1 Before the Court is the Motion for Sanctions filed by the Plaintiffs. The Court, having
2 reviewed the Motion and accompanying memoranda, declarations and exhibits in support, any
3 opposition thereto, the reply, the arguments of counsel, and good cause appearing, hereby
4 **ORDERS** that the Motion is **GRANTED**. The Court finds that the sanction of an adverse inference
5 jury instruction under Federal Rule of Civil Procedure Rule 37(e)(2) is appropriate to remedy
6 Google's continuing intentional destruction of Google Chats. The Court will therefore instruct the
7 jury that (1) Google had a discovery obligation to maintain Google Chats no later than August 13,
8 2020; (2) Google had a mechanism to do so; (3) Google failed to implement that mechanism; (4)
9 Google automatically deleted relevant Google Chats for each custodian in this case; (5) this
10 destruction prevented Plaintiffs and the jury from learning the contents of those Google Chats; and
11 (6) the jury should assume that the information Google had destroyed would have supported
12 Plaintiffs' claims against Google.

IT IS SO ORDERED.

DATED: _____ HONORABLE JAMES DONATO
UNITED STATES DISTRICT JUDGE